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HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 7th February, 2023

Guidelines for Recording of Evidence of Vulnerable Witnesses

No. 10 Rules/II.D17.—In pursuance to the directions issued by Hon'ble Supreme Court of India in **Smruti Tukaram Badade versus State of Maharashtra in Miscellaneous Application No. 1852 of 2019 in Criminal Appeal No. 1101 of 2019** and in exercise of the powers vested in it in this behalf, the High Court of Punjab and Haryana at Chandigarh, do hereby, formulate the following **Guidelines for Recording Evidence of Vulnerable Witnesses** :—

Preamble

The purpose of this protocol is to present guidelines and recommendations to improve the response of the justice dispensation system towards vulnerable witnesses.

This protocol prescribes guidelines while recording depositions of vulnerable witnesses in order to enable them to give their best evidence in criminal proceedings. Each witness is unique and is to be addressed accordingly. The vulnerability of a witness may emerge from a range of circumstances which include, but are not limited to - nature of crime, threats and intimidation, fear of reprisal, age, developmental levels, gender identity, sexual minorities, ethnicity, religious identity, caste, physical and/or mental disability, lack of infrastructural support, language barriers, geographical location etc. Some of the most challenging cases before judges during the course of their careers are those involving vulnerable witnesses such as children, victims of sexual offences or domestic violence, persons with disabilities, and witnesses experiencing threats to their life and property, among others. Vulnerable witnesses find their interaction with the legal process, especially the criminal justice process intimidating, particularly the courtroom experience. Under these circumstances, unless adequate support is provided, a vulnerable witness may not feel safe to provide robust testimony. Further, the lengthy process of navigating the adversarial criminal justice system or the civil justice system can affect the vulnerable witness' psychological well-being in significant and long-lasting ways.

To respond effectively to the needs of vulnerable witnesses, the justice system needs to respond proactively with sensitivity in an enabling and age-appropriate manner, so that the judicial process is less traumatic and secondary victimisation can be minimised. Sensitive engagement and suitable modifications of existing procedures (within the framework of the law), while ensuring the rights of the accused or the opposite party, can significantly impact the quality of deposition by vulnerable witnesses and potentially the outcome of a trial.

These Guidelines have been developed in furtherance of the Supreme Court's directions in *Smruti Tukaram Badade v. State of Maharashtra*,¹ and have been drawn from the Guidelines for recording evidence of vulnerable witnesses in criminal matters prepared by the Delhi High Court and the *Protocol for Recording Evidence of Vulnerable Witnesses* notified by the Jammu and Kashmir High Court, as well as relevant statutory provisions, judgments, and international standards relevant to vulnerable witnesses.

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¹ *Smruti Tukaram Badade v. State of Maharashtra*, 2022 LiveLaw(SC) 80.

Objectives of these Guidelines

1. To enable vulnerable witnesses to depose freely before any court in a safe and secure environment.
2. To minimize harm or secondary victimization of vulnerable witnesses in anticipation and as a result of participation in the justice system.
3. To ensure that the rights of all the parties in the judicial processes are effectively implemented. In the context of the criminal process - the accused's right to a fair trial and due process, the right of the victim to take part effectively in the proceedings, to be treated sensitively and not be subject to secondary victimization, and the protection of the rights of a vulnerable witness (who may not necessarily be a victim), are effectively implemented.

Applicability

1. Short Title, extent and commencement-

- a. These guidelines shall be called, "**Guidelines for recording evidence of vulnerable witnesses**".
- b. Unless otherwise provided, these guidelines shall govern the examination of vulnerable witnesses who are victims² or witnesses in any case.
- c. They shall apply to every court, including Juvenile Justice Boards in the States of Punjab, Haryana and Union Territory Chandigarh.
- d. Their application shall commence from the date of publication in the official gazettes of the States of Punjab, Haryana and Union Territory Chandigarh.

2. Construction of the guidelines-

These guidelines shall be liberally construed and interpreted, in view of the extant laws, to uphold the interests of vulnerable witnesses and to promote their maximum accommodation without prejudice to the right of the accused to a fair trial and due process.

3. Definitions -

a. Vulnerable Witness - For the purpose of these guidelines, "vulnerable witness" means and includes-

- (i) any child victim or witness who has not completed 18 years of age;
- (ii) any victim of an offence under the POCSO Act, 2012
- (iii) any victim of an offence under Sections 376(1), 376(2), 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376E, 354, 354A, 354B, 354C, 354D and 377 of the Indian Penal Code;
- (iv) any person with disability as defined under Section 2(s) of the Rights of Persons with Disabilities Act, 2016 and considered to be a vulnerable witness by the concerned court;
- (v) any witness suffering from "mental illness" as defined under Section 2(s) of the Mental Healthcare Act, 2017 read with Section 118 of the Indian Evidence Act, 1872;
- (vi) any witness deemed to have a threat perception under the Witness Protection Scheme, 2018 of the Union Government as approved by the Supreme Court in *Mahender Chawla v. Union of India*³; and
- (vii) any other witness deemed to be vulnerable by the concerned court,⁴ [including Family Courts, Children's Courts, Juvenile Justice Board, civil and criminal courts, or any tribunal or forum.]*

² Code of Criminal Procedure 1973, Section 2-(wa).

³ *Mahender Chawla v. Union of India*, (2019) 14 SCC 615.

⁴ *Smruti Tukaram Badade v. State of Maharashtra*, 2022 LiveLaw (SC) 80; *Sakshi v. Union of India*, AIR 2004 SC 3566 para 34.

***Subject to clarificatory orders of the Supreme Court.**

- b. Support Person** - Means and includes Support Persons assigned by the Child Welfare Committee under the POCSO Rules, 2020 to render assistance to the child through the process of investigation and trial, or any other person assisting a child in the pre-trial or trial process in respect of an offence under the POCSO Act,⁵ support person or para legal volunteer provided by the Legal Services Authority under the Juvenile Justice (Care and Protection of Children) Model Rules, 2016,⁶ or any other person appointed by the court to provide support including psycho-social support, accompany and assist the vulnerable witness, whether minor or major, to testify or attend judicial proceedings.
- c. Best Interests of the Child** - means the basis of any decision taken regarding the child, to ensure fulfilment of the child's basic rights and needs, identity, social well-being and physical, emotional and intellectual development.⁷
- d. Development Level** - Development level refers to the specific growth phase in which most individuals are expected to behave and function in relation to the advancement of their physical, mental, socio economical, cognitive and moral abilities.
- e. In-Camera Proceedings** - means proceedings wherein the court allows only those persons who are necessary to be present while hearing the witness deposing in the court.⁸
- f. Concealment of identity of witness** -Means and includes any legislative provision or judicial ruling prohibiting the disclosure of the name, address, school, family, relatives, neighbourhood or any other information which may lead to the identification of a vulnerable witness in print, electronic, social media, etc. or made known to the public at large during investigation, trial and post-trial stage.⁹
- g. Comfort Items** - Comfort items mean any article of choice of the vulnerable witness which may have a calming effect at the time of deposition and may include stuffed toy, blanket or book.
- h. Court House Tour** means a pre-trial tour of the courtroom and court complex by the Support Person or a para-legal volunteer, as the case may be, to familiarize a vulnerable witness with the environment and the basic process of adjudication and roles of each court official.¹⁰
- i. Live Link** - 'Live link' means and includes a live television link, audio-video electronic means or other arrangement whereby a witness, while not being physically present in the courtroom¹¹ is nevertheless present in the courtroom by remote communication using technology to give evidence and be cross-examined.

⁵ POCSO Rules 2020, Rules 2(1)(f), 4(8), and 5(6).

⁶ Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(14).

⁷ Juvenile Justice (Care and Protection of Children) Act 2015, Section 2(9).

⁸ The definition has been adapted from Witness Protection Scheme 2018, Clause 2(f).

⁹ POCSO Act 2012, Section 33(7); JJ Act 2015, Section 74; Indian Penal Code 1860, Section 228A; Nipun Saxena v. Union of India, (2019) 2 SCC 703; Witness Protection Scheme 2018, Clause 2(b); Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 15A (8) (a)(b).

¹⁰ Juvenile Justice (Care and Protection of Children) Model Rules, 2016, Rule 54(14); Alternative Pre-trial and Trial Processes for Child Witnesses in New Zealand's Criminal Justice System, Issue Paper, Min. of Justice, New Zealand Govt. 2010.

¹¹ Sec 275 Cr.P.C.; Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, CJSJI, UK.

- j. Special Measures** - means and includes the use of legislative provisions, and any mode, method and instrument, etc., considered necessary for providing assistance in recording deposition of vulnerable witnesses.
- k. Testimonial Aids** - means and includes screens; single visibility mirrors, curtains,¹² live links, image and/or voice altering devices;¹³ or any other technical devices, facilities and equipment.
- l. Secondary Victimization** - means victimization that occurs not as a direct result of a criminal act but through the response of institutions and individuals to the victim.¹⁴
- m. Revictimization** - means a situation in which a person suffers more than one criminal incident over a period of time.¹⁵
- n. Waiting Room** - A safe place for vulnerable witnesses where they can wait.
- o. Special Measures Direction** - The concerned court shall direct as to which special measure will be used to enable a vulnerable witness to depose freely and in a safe, accessible, and comfortable environment. Directions may be discharged or varied during the proceedings, but normally continue to be in effect until the proceedings are concluded.

4. Applicability of guide lines to all vulnerable witnesses-

For the avoidance of doubt, it is made clear that these guidelines shall apply to all vulnerable witnesses as defined in Rule 3(a) of these Guidelines, regardless of which party is seeking to examine the witness.

- 5. No inference of prejudice to be drawn from special measures-** The fact that a witness has had the benefit of a special measure to assist them in deposition, shall not be regarded in any way whatsoever as being prejudicial to the position of the other side and this should be made clear by the judge at the time of passing order in terms of these guidelines to the parties when the vulnerable witness is examined.
- 6. Identification of Stress causing factors of adversarial Criminal Justice System-** The Court shall consider the following factors which cause stress, especially but not only limited to child witnesses, rendering them further vulnerable witnesses, and impeding complete disclosure, and take necessary steps to mitigate or minimize the stress. The factors include, amongst others:¹⁶
 - a. Multiple depositions
 - b. Not using developmentally appropriate language
 - c. Delays and repeated adjournments

¹² POCSO Act 2012, Section 36(2).

¹³ Witness Protection Scheme, 2018, Clause 7(1); Mahender Chawla v. Union of India, (2019)

¹⁴ SCC 615. 14 UN Model Law on Justice in Matters involving Child Victims and Witnesses of Crime, 2009.

¹⁵ UN Model Law on Justice in Matters involving Child Victims and Witnesses of Crime, 2009.

¹⁶ State v. Sujeet Kumar, 2014(4) JCC 2718 (High Court of Delhi); Breaking the Cycle of Violence: Recommendations to Improve the Criminal Justice Response to Child Victims and Witnesses, US Dept. of Justice.

- d. Testifying more than once
- e. Prolonged/protracted court proceedings
- f. Lack of communication between professionals including police, doctors, lawyers, prosecutors, investigators, and mental health practitioners, and lack of convergence with authorities such as Child Welfare Committees, District Child Protection Units, One Stop Centres etc.
- g. Fear of public exposure
- h. Anxiety about threats from the accused and/or their associates
- i. Confusion and guilt about testifying against a family member or relative
- j. Lack of understanding of complex legal procedures
- k. Face-to-face contact with the accused
- l. Practices insensitive to developmental needs
- m. Aggressive and inappropriate cross-examination, including asking irrelevant questions
- n. Lack of adequate support, witness protection, and victims services
- o. Sequestration of witnesses who may be supportive to the vulnerable witness
- p. Placement that exposes the vulnerable witness to intimidation, pressure, or continued abuse
- q. Lack of preparation to enable fearless and robust testifying
- r. Worry about not being believed especially when there is no evidence other than the testimony of the vulnerable witness
- s. Worry about being yelled at, ridiculed, or getting into trouble for testifying
- t. Worry about retaliation or repercussions for themselves or their family
- u. Worry about not being understood or being able to communicate effectively
- v. Formality of court proceedings and surroundings including formal dress of members of the judiciary and legal personnel
- w. Inaccessibility of the courtroom, particularly for vulnerable witnesses with disabilities

7. Competency of vulnerable witness-

Every vulnerable witness shall be presumed to be competent to testify as a witness, unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions due to tender years, disability, either of body or mind, and illness, or any other cause of the same kind, in accordance with Section 118 of the Indian Evidence Act, 1872.¹⁷

¹⁷ Indian Evidence Act 1872, Section 118.

Explanation : A mentally ill person may also be held competent unless the person is prevented by the illness to understand questions.⁴

When conducting the competency examination, the court shall not use "general knowledge" or "current affairs" questions to adjudge competence. Similarly, philosophical questions, such as, what truth means should be strictly avoided.

8. Persons allowed at competence assessment- Only the following may be allowed to attend the competence assessment:

- a. the judge and such court personnel deemed necessary and specified by order of the judge concerned;
- b. the counsel for the parties;
- c. the guardian ad litem;
- d. non-offending parent, guardian, friend, relative of a child victim or a person in whom the child has trust or confidence;¹⁸
- e. one or more support persons for a child victim or witness;
- f. translator, interpreter, expert or special educator, if necessary;¹⁹
- g. person familiar with the manner of communication of a vulnerable witness with intellectual or physical disability;²⁰
- h. the accused, unless the court determines that competence requires to be and can be fully evaluated in their absence; and
- i. any other person, who in the opinion of the court can assist in the competence assessment.

9. Conduct of competence assessment- The assessment of a person, as to their competence as a witness shall be conducted only by the presiding judge.

10. Pre-trial visit of Witnesses to the Court- Vulnerable witnesses shall be allowed a pre-trial court house tour or tour of the civil court or Juvenile Justice Board, etc., along with the support person²¹ or para-legal volunteer, as the case may be, to enable such witnesses to familiarize themselves with the layout, and may include visit to and explanation of the following :

- a. the location of the accused in the dock;
- b. court officials (what their roles are and where they sit);
- c. who else might be in the court;
- d. the location of the witness box;
- e. a run-through of basic court procedure;

¹⁸ POCSO Act 2012, Section 33(4); Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(18)(i).

¹⁹ POCSO Act 2012, Section 38(1).

²⁰ POCSO Act 2012, Section 38(2); Right of Persons with Disabilities Act 2016, Section 12.

²¹ Juvenile Justice (Care and Protection of Children) Model Rules, 2016, Rule 54(14).

- f. the facilities available in the court which may include the waiting room, toilet, separate passage for entry and exit, and testimonial aids;
 - g. discussion of any particular fears or concerns, including concerns regarding safety in relation to the accused, with the support person, prosecutors and the judge to dispel the fear, trauma and anxiety in connection with the upcoming deposition at court;²²
 - h. demonstration of any special measures applied for and/or granted, for example practising on the live link and explaining who will be able to see them in the courtroom, and showing the use of screens (where it is practical and convenient to do so).²³
- 11. Meeting the judge-** The Judge may meet a vulnerable witness *suo motu* on reasons to be recorded or on an application of either party in the presence of the prosecution and defence lawyer, or in their absence before the witness gives their evidence, for explaining the court process in order to help them to understand the procedure and give their testimony, free of fears and concerns.
- 12. Assistance of an interpreter, translator, special educator or expert-**
- (i) The court shall ensure that proceedings relevant to the testimony of a vulnerable witness or witness are conducted in language that is simple and comprehensible to the witness.
 - (ii) Wherever necessary, the court may, *suo motu* or upon an application presented by either party or a Support Person of vulnerable witnesses take the assistance of a qualified and experienced interpreter, translator, special educator or expert, to enable recording of evidence of vulnerable witnesses, and on payment of such fees as may be prescribed by the State Government or authority concerned.²⁴
 - (iii) The concerned court may consider the qualifications prescribed for interpreters, translators, sign language interpreters, special educators and experts in Rule 5, POCSO Rules, 2020 or any other laws, rules, or judgments of the High Court or Supreme Court in this regard.
 - (iv) The court may also take the assistance of a person familiar with the manner of communication of a vulnerable witness with physical or intellectual disability while recording evidence.²⁵
 - (v) If, in view of the vulnerable witnesses' age, level of maturity or special individual needs of a witness, which may include but are not limited to disabilities (if any), ethnicity, poverty or risk of revictimization, the witness requires special assistance measures in order to testify or participate in the justice process, such measures shall be provided free of cost.
 - (vi) If the court appoints an interpreter, translator, special educator or expert, the respective counsel for the parties shall pose questions to the vulnerable witness only through them, either in the words used by counsel or, if the vulnerable witness is not likely to understand the same, in words, signs, or by such mode as is comprehensible to the vulnerable witness and which conveys the meaning intended by the counsel.

²² POCSO Rules 2020, Rule 4(9).

²³ *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, UK; Safeguarding Children as Victims and witnesses, UK.*

²⁴ *POCSO Act, Section 38(1); Rights of Persons with Disabilities Act 2016, Section 12; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 14.*

²⁵ *POCSO Act, Section 38(2); Rights of Persons with Disabilities Act 2016, Section 12.*

13. Legal assistance and legal aid- The concerned court shall facilitate the right of a child victim under the POCSO Act to take assistance of a legal counsel of their choice.²⁶ Further, any vulnerable witness who falls within the ambit of Section 12, Legal Services Authorities Act, 1987 or any other laws, rules, or policies that recognise their right to free legal aid may be provided with legal aid by the court either:²⁷

- a. based on a request by or on behalf of the vulnerable witness; or
- b. pursuant to an order of the court on its own motion.

14. Court to allow presence of Support Persons-

- (i) The court shall inform vulnerable witnesses that they may take the assistance of a Support Person during the trial. In cases under the POCSO Act, 2012, the concerned court shall take into consideration the role of the Support Persons as provided in Rule 4(9), POCSO Rules, 2020.
- (ii) The court shall allow suo motu or on request, verbal or written, the presence of a Support Person of the choice of the vulnerable witness in the courtroom during the deposition,²⁸ provided that such support person shall not completely obscure the witness from the view of the accused or the judge.
- (iii) The court may allow the Support Person to take appropriate steps to provide emotional support to the vulnerable witness in the course of the proceedings²⁹ and also inform the court if the vulnerable witness needs a break or is feeling stressed or triggered.
- (iv) The court shall instruct the Support Person not to prompt, sway, influence or tutor the vulnerable witness during their testimony.
- (v) Where no other suitable person is available, and only in very rare cases should another witness in the case, whose deposition has already been completed in all respects, be appointed as a Support Person. The court shall ordinarily appoint a neutral person, other than a parent, as a Support Person. It is only in exceptional circumstances keeping the condition of the vulnerable witness in mind, that the court should appoint a parent as a Support Person. In POCSO cases, however, care shall be taken to ensure that the provisions of the POCSO Rules, 2020 regarding engagement of Support Persons are adhered.
- (vi) The court shall allow Support Persons to coordinate with the other stakeholders such as police, Special Juvenile Police Unit (SJPU), medical officer, prosecutors, mental health professionals, Child Welfare Committee, Juvenile Justice Board, defence counsels and courts.
- (vii) As far as possible, the concerned court shall ensure the continuity of the same Support Person during the deposition.
- (viii) If the Support Person is also a witness in the case, their testimony shall be recorded, ahead of the testimony of the vulnerable witness.

²⁶ POCSO Act, Section 40; Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(19).

²⁷ Delhi Domestic Working Women's Forum v. Union of India, 1995 1 SCC 14 (Supreme Court).

²⁸ POCSO Act 2012, Section 33(4); POCSO Rules 2020, Rule 4(9); ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, clause 30(a); Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 14.

²⁹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 6(a).

- 15. Right to be informed-** A vulnerable witness, their parents or guardian, lawyer, the Support Person, if designated, or other appropriate person designated to provide assistance shall, from their first contact with the court process and throughout that process, be promptly informed by the Court about the stage of the process and, to the extent feasible and appropriate, about the following:³⁰
- a. charges brought against the accused, or if none, the stay of proceedings against them;³¹
 - b. the progress of the case;³²
 - c. procedures of the criminal justice process including the role of vulnerable witnesses, the importance, timing and manner of testimony, and the ways in which proceedings will be conducted during the trial;³³
 - d. existing support mechanisms for a vulnerable witness when participating in proceedings, including services of a Support Person;³⁴
 - e. schedule of court proceedings that the vulnerable witness is either required to attend or is entitled to attend and the specific time and place of hearings and other relevant processes;³⁵
 - f. right of the informant or person authorised by the informant to be present at the time of hearing of the bail application of an accused under Sections 376(3), 376AB, 376DA, or 376DB of the Indian Penal Code, 1860,³⁶ or under the POCSO Act.³⁷
 - g. right of vulnerable victims and their dependents to reasonable, accurate and timely notice of court proceedings and bail proceedings under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989;³⁸
 - h. right of vulnerable victims and their dependents to be heard during proceedings of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989;³⁹
 - i. availability of public and private emergency, and crisis services, including shelters;
 - j. availability of protective measures;

³⁰ POCSO Rules 2020, Rule 4(15).

³¹ Model Guidelines under Section 39 of the Protection of children from Sexual Offences Act, 2012. ³² Model Guidelines under Section 39 of the Protection of children from Sexual Offences Act, 2012.

³³ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 19(b). Declaration of Basic Principles of Justice of Crime and Abuse of Power, Clause 6(a).

³⁴ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 19(a).

³⁵ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 19(d).

³⁶ Code of Criminal Procedure 1973, Section 439 (1-A).

³⁷ Reena Jha v. Union of India, W.P. (C) 5011/2017 decided by the Delhi High Court on 25.11.2019; Miss G v. NCT of Delhi, Crl. M.C. 1474/2020 (High Court of Delhi); Arjun Kishanrao Malge v. State of Maharashtra, PIL No. 5/2021 decided by the Bombay High Court on 08.04.2021; Akash Chandrakar v. State of Chhattisgarh, Criminal Appeal No. 101 of 2021 decided by the Chhattisgarh High Court on 19.01.22; Rohit v. State of U.P, Bail No. 8227/2021 decided by the Allahabad High Court on 06.08.21.

³⁸ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 15A(3).

³⁹ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 15A (5); ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 21.

- k. availability of victim's compensation benefits;
- l. availability of legal aid;⁴⁰
- m. availability of institutional and non-institutional care under the juvenile justice system for vulnerable witnesses who may come under the ambit of a "child in need of care and protection";
- n. relevant rights of child victims and witnesses under the POCSO Act and Rules, JJ Act, 2015 and Model Rules or applicable State Rules, and other applicable laws, as well as the United Nations Convention on the Rights of the Child and other international legal instruments, including the Guidelines and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985;
- o. the progress and disposition of the specific case, including in a criminal case the apprehension, arrest and custodial status of the accused and any pending changes to that status, the prosecutorial decision and relevant post-trial developments and the outcome of the case and sentence imposed;
- p. all decisions, or at least those decisions affecting the interests of the victim or vulnerable witness;⁴¹
- q. the process for appeal against the order of the court.

16. Waiting area for vulnerable witness- The courts shall ensure that a waiting area for vulnerable witnesses with the support person, and the lawyer of the vulnerable witness, if any, is separate from waiting areas used by other persons.⁴² Care shall be taken to ensure that the waiting room is used only by the vulnerable witness and the non-offending family members and support persons. The waiting area should be accessible to all vulnerable witnesses, including those with disability.⁴³ The waiting area for vulnerable witnesses should be furnished so as to make a vulnerable witness comfortable. This may include, but not be limited to, being furnished and equipped with toys, books, games, drawing and painting materials and other such activities, TV, etc which can help lower the anxiety of the witness.⁴⁴ It could include a place for very young child witnesses to rest or sleep. Accessible toilets and drinking water facilities should also be available inside the waiting room or within close proximity. The approach to the waiting area shall be in such a way that allows the witness to access it with ease and without having to confront other litigants, police, or the accused and their associates. The waiting area needs to be equipped with a digital "Case Number Display Monitor" that shows the case being called in the court. Arrangements for the vulnerable witness to depose from the waiting area, which may include monitors and screens for recording of the evidence of the child shall be made available.

⁴⁰ ECOSOC Resolution 2005/20, *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, Clause 19(a).

⁴¹ *Model guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012.*

⁴² ECOSOC Resolution 2005/20, *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, Clause 31(b).

⁴³ *Rights of Person with Disabilities Act 2016, Section 12.*

⁴⁴ *Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(12).*

17. Duty to provide comfortable environment-

- (i) It shall be the duty of the court to ensure a comfortable environment for the vulnerable witness by issuing directions and also by supervising the location, movement and deportment of all persons in the courtroom including the parties, their counsel, vulnerable witnesses, Support Persons, guardian *ad litem*, facilitator, and court personnel.⁴⁵
- (ii) Separate and safe waiting areas and passage thereto should be provided for vulnerable witnesses.
- (iii) Care shall be taken to ensure that the vulnerable witness courtroom is accessible to persons with disabilities.
- (iv) The vulnerable witness may be allowed to testify from a place other than the witness chair. The witness chair or other place from which the vulnerable witness testifies may be turned to facilitate their testimony but the accused or the opposite party and their counsel must have a frontal or profile view of the vulnerable witness even by a video link, during the testimony of the vulnerable witness. The witness chair or other place from which the vulnerable witness testifies may also be rearranged to allow the vulnerable witness to see the accused or the opposite party and their counsel, if the vulnerable witness chooses to look at them, without turning their body or leaving the witness stand.
- (v) In case of a victim of a sexual offence, care should be taken to avoid exposure of the victim to the accused at the time of recording the evidence, while ensuring the right of cross-examination of the accused⁴⁶ and that the accused is in a position to hear the statement of the child and communicate with their advocate.⁴⁷
- (vi) While deciding to make available such an environment, the judge may be dispensed with from wearing their judicial robes.⁴⁸
- (vii) Access to creche facilities within the court premises should be enabled for vulnerable witnesses who may require child care facilities on the date of their deposition.

18. Directions for Judges of Criminal Courts, Children's Courts and Juvenile Justice Boards¹²-

- (i) Vulnerable witnesses shall receive high priority and shall be dealt with as expeditiously as possible, minimizing unnecessary delays and adjournments to avoid repeated appearances of the witness in the Court.⁴⁹ (Whenever necessary and possible, the court schedule will be altered to ensure that the testimony of the vulnerable witness is recorded on sequential days, without delays.)

⁴⁵ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(d).

⁴⁶ Code of Criminal Procedure 1973, Section 273.

⁴⁷ POCSO Act 2012, Section 36(1); JJ Model Rules 2016, Rule 54(18 (xi)).

⁴⁸ Virender v. State of NCT Delhi, CrI. A.No. 121/08 dt. 29.09.09 decided by the High Court of Delhi.

⁴⁹ POCSO Act, 2012, Section 33(5); Code of Criminal Procedure 1973, proviso to Section 309(1); Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 14(3); ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(c). Declaration of Basic Principles of Justice for Victim for Crime and Abuse of Power, Clause 6(e).

- (ii) Judges and court administrators should ensure that the developmental needs of vulnerable witnesses are identified, recognized and accommodated in the arrangement of the courtroom and recording of the testimony. For instance, judges should use developmentally appropriate language, schedule hearings for the record of testimony bearing in mind the attention span, physical needs and exam schedules of young vulnerable witnesses, and allow the use of testimonial aids as well as interpreters, translators, when necessary.
- (iii) The judges should ensure that vulnerable witnesses with disability are able to exercise their right to access the court without discrimination on the basis of disability.⁵⁰ In case of a victim under Sections 354, 354A, 354-B, 354-C, 354-D, 376(1), 376(2), 376-A, 376-B, 376-C, 376-D, 376-E, or 509, IPC, where the victim is temporarily or permanently mentally or physically disabled, their statement under Section 164(5-A) shall be considered as a statement in lieu of examination-in- chief.⁵¹
- (iv) Additional measures may be taken to enable the recording of evidence of vulnerable witnesses with disability. For instance, steps can be taken to record witness testimony in compliance with Section 278, Cr.PC in Braille to ensure a vulnerable witness is not dependant on another person to read their testimony out; use of amplification devices/ document magnifiers/ ensuring that all notices that require a response or an action to be taken (e.g. summons, orders) are available by accessible means and in accessible formats; use of video and audio guides; engagement of sign language interpreters; enabling wheelchair access in the court premises, courtroom and witness box. Adequate time should be given to vulnerable witnesses using communication boards during evidence.
- (v) The Court should be satisfied that a victim or vulnerable witness is not scared and that they are able to reveal what happened to them when they are subjected to an examination during recording of evidence. The Court must ensure that the victim or vulnerable witness is not concealing any portion of evidence for the reason that they were ashamed of what happened to them.⁵²
- (vi) The Court shall ensure that adequate time and opportunity is given to refresh the memory of vulnerable witnesses.
- (vii) In cases of sexual offences, judges should avoid asking the vulnerable witness to demonstrate intimate touching on their own body, during the recording of the testimony and vulnerable witnesses can instead be asked to point to a body outline diagram.⁵³
- (viii) Judges should be flexible in allowing the vulnerable witnesses to have a Support Person present while testifying and should guard against unnecessary sequestration of Support Persons or any other persons permitted to be present during the testimony of the witness.
- (ix) Judges should encourage the victim or vulnerable witness to let the court know if they have a problem, do not understand a question or if they may need a break.⁵⁴
- (x) Judges should ensure that steps are taken to ensure the atmosphere is comfortable and not intimidating. For instance, the court may consider allowing a limited number of defence lawyers to be present in the courtroom during the deposition of a vulnerable witness or not allowing counsel to ask questions in an intimidating tone or interrupting the witness.

⁵⁰ *Rights of Persons with Disabilities Act 2016, Section 12; UN Convention on the Right of Persons with Disabilities Article 13.*

⁵¹ *Code of Criminal Procedure 1973, Section 164(5A)(b).*

⁵² *Akshay Sarma v. State of Assam, (2017)2 GLR 121 (Guahati High Court).*

⁵³ *Ministry of Women and Child Development, Model Guidelines under Section 39 of The Protection of children from Sexual Offences Act, 2012, p.69.*

⁵⁴ *Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012.*

- (xi) Judges shall carefully monitor the examination and cross examination of the victim or vulnerable witnesses to avoid any harassment or intimidation to the victim or vulnerable witness.⁵⁵
- (xii) Judges may allow a vulnerable witness to carry a comfort item during the deposition.
- (xiii) Judges may provide transport or transportation cost for the vulnerable witness in accordance with the guidelines prescribed by the concerned High Court in this regard.
- (xiv) Judges shall ensure that the requisite guidelines and Standard Operating Procedures affirmed by the Hon'ble Supreme Court in respect of recording of evidence of vulnerable witnesses is followed.⁵⁶

19. Allowing proceedings to be conducted in camera-

- (i) The mandatory requirement of in camera trials as per section 327 CrPC and Section 37 of the POCSO Act shall be ensured and recorded in the orders passed in such cases. In all other cases, the court may, at the time of testimony of a vulnerable witness, order in writing the exclusion from the courtroom of all persons, who do not have a direct interest in the case including members of the press. Such an order may be made to protect the right to privacy of the vulnerable witness or if the court is of the opinion that requiring the vulnerable witness to testify in open court would cause psychological harm to them, hinder the ascertainment of truth, or result in their inability to effectively communicate due to embarrassment, fear, or timidity.
- (ii) In making its order, the court shall consider the developmental level of the vulnerable child witness, the nature of the crime, the nature of testimony regarding the crime, the relationship of the child witness to the accused and to persons attending the trial, their wishes, and the interests of their parents or legal guardian.

20. Live-link television testimony in criminal cases where the vulnerable witness is involved-

- (i) Any party in the case, the prosecutor, counsel or the guardian ad litem may apply for an order that the testimony of the vulnerable witness be taken in a room outside the courtroom and be televised to the courtroom by live-link television.¹³
- (ii) In order to take a decision of usage of a live-link the judge may question the vulnerable witness in chambers, or in some comfortable place other than the courtroom, in the presence of the support person, guardian ad litem, prosecutor, and counsel for the parties. The questions of the judge shall not be related to the issues at trial but to the feelings of the vulnerable witness about testifying in the courtroom.
- (iii) The court on its own motion, if deemed appropriate, may pass orders in terms of (i) or any other suitable directions for recording the evidence of a vulnerable witness.

21. Provision of testimonial aids to prevent exposure of vulnerable witness to the accused- The court may suo motu or on an application made even by the vulnerable witness, prosecutor or counsel or the guardian ad litem order testimonial aid such as screens, one-way mirror,

⁵⁵ *Akshay Sarma v. State of Assam*, (2017)2 GLR 121 (Guahati High Court).

⁵⁶ For instance, the SOP laid down in *In Re Children in Street Situations*, 2022 SCC OnLine SC 189 (Supreme Court of India) is to be followed in all criminal trials where the child witnesses do not reside near the Court where the trial is conducted and where the child witnesses virtually, not physically, in these courts where the trial is conducted. Judges should also comply with the Witness Protection Scheme 2018 which was approved by the Supreme Court in *Mahender Chawla v. Union of India* (2019) 14 SCC 615 (Supreme Court of India).

curtains or other devices to be placed in the courtroom in such a manner that the vulnerable witness cannot see the accused/opposite party while testifying and at the same time ensuring that the opposite party/accused is in a position to hear the statement of the vulnerable witness and communicate with their advocate.⁵⁷ The court shall issue an order in writing stating the reasons and describing the approved courtroom arrangement in the judgment.

22. Factors to be considered while considering the application under Guidelines-

- (i) The court may order that the testimony of the vulnerable witness be taken by live-link television if there is a substantial likelihood that the vulnerable witness would not provide a full and candid account of the evidence if required to testify in the presence of the accused/opposite party, their counsel or the prosecutor as the case may be or if the vulnerable witness is likely to be traumatised by exposure to the accused.
- (ii) The order granting or denying the use of live-link television shall state the reasons therefore and may consider the following :
 - a. the age and level of development of the vulnerable witness;
 - b. the physical and mental health, including any intellectual or physical disability of the vulnerable witness;
 - c. any physical, emotional, or psychological harm related to the case on hand or trauma experienced by the vulnerable witness;
 - d. the nature of the alleged offence/case and circumstances of its commission;
 - e. any threats against the vulnerable witness;
 - f. the relationship of the vulnerable witness with the accused or adverse party;
 - g. the reaction of the vulnerable witness to any prior encounters with the accused/opposite party in court or elsewhere;
 - h. the reaction of the vulnerable witness prior to trial when the topic of testifying was discussed by parents or professionals;
 - i. specific symptoms of stress exhibited by the vulnerable witness in the days prior to testifying;
 - j. testimony of expert or lay witnesses;
 - k. the custodial situation of the child and the attitude of the members of the child's family regarding the events about which the child will testify;
 - l. the wishes of the vulnerable witness on the manner in which they would like to render the testimony; and
 - m. other relevant factors, such as court atmosphere and formalities of court procedure.
- (iii) The court shall ensure ahead of time that the equipment is working, recordings can be played and that camera angles will not permit the witness to see the defendant. The court shall not wait until the victim or vulnerable witness is in the live link room to run checks: delays and malfunctions can be disruptive to the vulnerable witness. Where a live link is being used

⁵⁷ POCSO Act 2012, Section 36(1); Code of Criminal Procedure 1973, Section 273; ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 31(c).

during the vulnerable witness's testimony, ensure that they are able to see all of the questioner's face.⁵⁸ It should be explained that the judge or magistrates can always see the vulnerable witness over the live video link even when the witness cannot see the judge or magistrates.⁵⁹

23. Mode of questioning-

- (i) To facilitate the ascertainment of the truth the court shall exercise control over the questioning of vulnerable witnesses and may do so by :
 - a. ensuring that questions are kept simple and stated in a form appropriate to the comprehension and developmental level of the vulnerable witness;
 - b. protecting vulnerable witness from harassment or undue embarrassment, character assassination, aggressive questioning, and ensure that dignity of the witness is maintained at all times during the trial;⁶⁰
 - c. avoiding waste of time by declining questions which the court considers unacceptable due to their being improper, unfair, misleading, needless, unconnected to the case, repetitive or expressed in language that is too complicated for the witness to understand.
 - d. allowing the vulnerable witness to testify in a narrative form.
 - e. in cases involving multiple accused persons or defendants, take steps to minimize repetition of questions, and the court may require counsels for different parties to provide questions in advance from all the counsels.
 - f. in cases involving sexual offences against child victims, ensuring that questions are put to the child victim only through the court.⁶¹
- (ii) Objections to questions should be couched in a manner so as not to mislead, confuse, frighten a vulnerable witness.
- (iii) The court should allow the questions to be put in simple language avoiding slang, esoteric jargon, proverbs, metaphors and acronyms. The court should ascertain the spoken language of the victim or vulnerable witness and the range of their vocabulary before recording the evidence.⁶² The court must not allow the question carrying words capable of multiple meanings, questions having use of both past and present in one sentence, or multiple questions, which is likely to confuse a witness. Where the witness seems confused, instead of repetition of the same question, the court should direct its re-phrasing.

Explanation : The reaction of a vulnerable witness shall be treated as sufficient clue that the question was not clear so it shall be rephrased and put to the witness in a different way.⁶³

58 Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

59 Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

60 POCSO Act 2012, Section 33(6); Indian Evidence Act 1872, Section 53A, 148, 151, 152 and the proviso to Section 146; State of Punjab v. Gurmit Singh (1996) 2 SCC 384; Akshay Sarma v. State of Assam, (2017) 2 GLR 121 (Guahati High Court).

61 POCSO Act 2012, Section 33(2); Sakshi v. Union of India, AIR 2004 SC 3566 (Supreme Court of India).

62 Akshay Sarma v. State of Assam, (2017) 2 GLR 121 (Guahati High Court).

63 Virender v. State, Crl. A.No. 121/08 decided by the Delhi High Court on 29.09.09.

- (iv) Given the developmental level of vulnerable witnesses, excessively long questions shall be required to be rephrased and thereafter put to witness.
- (v) Questions framed as compound or complex sentence structure; or two part questions or those containing double negatives shall be rephrased and thereafter put to witness.

24. Rules of deposition to be explained to the Witnesses- The court shall explain to a vulnerable witness to

- (a) Carefully listen to the questions posed and to tell the court the true version of events and, as far as possible (except in the case of very young children) not to respond by shaking their head to mean yes or no, when answering,
- (b) To specifically state if the witness does not remember or has forgotten something,
- (c) To clearly ask when the question is not understood.

A gesture by a vulnerable witness to explain what had happened shall be appropriately interpreted and recorded in the vulnerable witness' deposition. Assistance of an interpreter or special educator shall be taken if the witness is unable to communicate verbally and such statement should be videographed.⁶⁴

25. Compensation-

The court shall apply its mind to the question of award of compensation in every case involving a victim who is a vulnerable witness, having regard to the applicable laws and schemes.⁶⁵

26. Protection of privacy and safety- Orders and judgments pertaining to cases involving vulnerable witnesses shall be made available on e-courts or on the official portal of the court after redacting identifying information of Vulnerable witnesses. Any record containing identifying information regarding a vulnerable witness shall be confidential and kept under seal. Except upon written request and order of the court, the record shall only be made available to the following :

- a. Members of the court staff for administrative use;
- b. The Public Prosecutor for inspection;
- c. Defence counsel for inspection;
- d. The guardian *ad litem* for inspection;
- e. Other persons as determined by the court.

27. Protective order- The depositions of the vulnerable witness recorded by video link shall not be video recorded except under reasoned order requiring the special measures by the judge. However where any video or audio recording of a vulnerable witness is made, it shall be under a protective order that provides as follows:

- (i) A transcript of the testimony of the vulnerable witness shall be prepared and maintained on record of the case. Copies of such transcript shall be furnished to the parties of the case.

⁶⁴ Indian Evidence Act 1872, Section 119.

⁶⁵ Code of Criminal Procedure 1973, Section 357, 357A; POCSO Act 2012, Section 33(8) and POCSO Rules 2020, Rule 9; NALSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes-2018; Ankush Shivaji Gaikwad v. State of Maharashtra, AIR 2013 SC 2454 (Supreme Court of India); Nipun Saxena v. Union of India, Writ Petition(s) (Civil) No(s). 565/2012 order of the Supreme Court dated 11.05.2018; Suresh v. State of Haryana, 2014 SCC OnLine SC952 (Supreme Court of India); Bodhisattwa Gautam v. Miss Subhra Chakraborty, AIR 1996 SCC 922 (Supreme Court of India); Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 12.

- (ii) Recording may be viewed only by parties, their counsel, their expert witness, and the guardian ad litem in the office of the court, following a procedure similar to inspection of documents.
 - (iii) No person shall be granted access to the recording, or any part thereof unless they sign a written affirmation that they have received and read a copy of the protective order; that they submit to the jurisdiction of the court with respect to the protective order; and that in case of violation thereof, they will be subject to the penalties provided by law.
 - (iv) Any recording, if made available to the parties or their counsel, shall bear the following cautionary notice :
 "This object or document and the contents thereof are subject to a protective order issued by the court in (case title), (case number). They shall not be examined, inspected, read, viewed, or copied by any person, or disclosed to any person, except as provided in the protective order. No additional copies of the tape or any of its portion shall be made, given, sold, or shown to any person without prior court order. Any person violating such protective order is subject to the contempt power of the court and other penalties prescribed by law."
 - (v) No recording shall be given, loaned, sold, or shown to any person except as ordered by the court. This protective order shall remain in full force and effect until further order of the court.
- 28. Personal details during evidence likely to cause threat to physical safety of vulnerable witness to be excluded-** A vulnerable witness has a right at any court proceeding not to testify regarding personal identifying information, including their name, address, telephone number, school, and other information that could endanger their physical safety or that of their family. The court may, however, require the vulnerable witness to testify regarding personal identifying information in the interest of justice.
- 29. Destruction of videotapes and audiotapes-** Any video or audio recording of a vulnerable witness produced under the provisions of these guidelines or otherwise made part of the court record shall be destroyed as per rules formed by the concerned High Court.
- 30. Protective measures-** At any stage in the justice process where the safety of a vulnerable witness is deemed to be at risk, depending upon the intensity of the threat perception, the court shall suo motu arrange to have protective measures put in place for the vulnerable witness or refer the matter to the Competent Authority under the Witness Protection Scheme, 2018.⁶⁶ Those measures may include the following :
- a. prohibiting direct or indirect contact between a vulnerable witness and the accused/opposite party at any point in the justice process;⁶⁷
 - b. restraint orders;⁶⁸
 - c. direct continuation of bail conditions during trial;⁶⁹
 - d. protection for a vulnerable witness by the police or other relevant agencies and safeguarding the whereabouts of the vulnerable witness from disclosure;⁷⁰
 - e. any other protective measures that may be deemed appropriate, including those stipulated under the Witness Protection Scheme, 2018.

⁶⁶ *Mahender Chawla v. Union of India*, (2019) 14 SCC 615 (Supreme Court of India); *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, Clause 6(d).

⁶⁷ *ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, Clause 34(a).

⁶⁸ *E COSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, Clause 34(b).

⁶⁹ *ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, Clause 34(c).

⁷⁰ *ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, Clause 34(e).

- 31. Review and Monitoring** - The implementation of the guidelines shall be reviewed annually and for this purpose the High Court concerned shall engage independent research bodies or organisations, reputed academic institutions or Universities or constitute a multi-disciplinary Committee including experts having the experience of working with vulnerable witnesses. The recommendations received shall be promptly acted upon and the guidelines may also be updated based on relevant legal developments.

Additional Guidelines specific to child victims and witnesses

- 32. Developmentally appropriate questions for child witnesses**-The questions asked to assess the competency of a child witness shall be appropriate to the age and developmental level of the child; shall not in any manner be related to the issues at trial; and shall focus on the ability of the child to remember, communicate, distinguish between truth and falsehood, and appreciate the duty to testify truthfully.⁷¹
- 33. Appointment of Guardian ad litem**- The court may appoint any person as guardian ad litem as per law to a vulnerable child witness who is a victim of, or a witness to a crime having regard to their best interests, after considering the background of the guardian ad litem and their familiarity with the judicial process, social service programs, and human development, giving preference to the parents of the child, if qualified. The guardian ad litem may be a member of bar / practicing advocate, except a person who is a witness in any proceeding involving the vulnerable witness.
- 34. Duties of guardian ad litem**- It shall be the duty of the guardian ad litem of the vulnerable child witness so appointed by court to:
- attend all depositions, hearings, and trial proceedings in which a vulnerable witness participates.
 - make recommendations to the court concerning the best interest of the vulnerable witness keeping in view the needs of the witness and observing the impact of the proceedings on the witness.
 - explain in a language understandable to the vulnerable witness, all legal proceedings, including police investigations, status and progress of the trial, child-friendly measures and rights, and witness protection measures, in which the vulnerable witness is involved;
 - assist the vulnerable witness and their family in coping with the emotional effects of participating in any case/proceedings, especially the crime and subsequent criminal or non-criminal proceedings in which the vulnerable witness is involved;
 - remain with the vulnerable witness while the vulnerable witness waits to testify.
- 35. Testimony during appropriate hours** - The court may order that the testimony of the child witness or child victim should be taken during a time of day when the vulnerable witness is well-rested and does not clash with their routine activities like meal and sleep timings, attending school/exams or other activities specific to that witness.⁷²
- 36. Frequent breaks during testimony**- The child witness or child victim may be allowed reasonable periods of relief and breaks while undergoing depositions, as often as necessary, depending on their age, disability, and developmental need.⁷³

⁷¹ *State v. Rahul, 2013 IVAD 745 (High Court of Delhi), State v. Sujeet Kumar, 2014(4) JCC 2718 (High Court of Delhi).*

⁷² *ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(d).*

⁷³ *POCSO Act 2012, Section 33(3), ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(d).*

37. Measures to protect the privacy and well-being of child victims and witnesses—

- (i) Confidentiality of vulnerable witnesses and judicial transparency are not mutually exclusive and vulnerable victims'/witnesses' right to information and access to court records in their own case shall not be restricted in the name of protecting their privacy and confidentiality. It is possible for courts to maintain anonymity of vulnerable witnesses through simple name suppression measures which would then enable the release of court documents without endangering their privacy. Best practices from various countries and international tribunals and courts may be adapted for the purpose of balancing confidentiality and judicial data accessibility and transparency.⁷⁴
- (ii) To ensure the privacy and physical and mental well-being of a child victim and to prevent undue distress and secondary victimization, taking into account the best interests of the vulnerable witness, the court may order one or more of the following measures to protect the privacy and physical and mental well-being of the vulnerable child witness or victim:⁷⁵
 - a. concealing from the public record any names, addresses, workplaces, professions or any other information that could lead to the identification of the child victim or witness in orders, judgments, or any case records accessible to the public.⁷⁶ Where the accused is related to the child victim, care shall also be taken to redact the identity of the accused before making the order or judgment accessible to the public;⁷⁷
 - b. prohibiting the defence lawyer and persons present in the court room from revealing the identity of the vulnerable witness or disclosing any material or information that would lead to the identification of the vulnerable witness in the media;
 - c. protecting the identity of child victims and permitting disclosure in accordance with relevant statutory provisions and judicial precedents;⁷⁸
 - d. assigning a pseudonym or a number to a child victim in cases of sexual offences, in which case the full name and date of birth of the child shall be revealed to the accused for the preparation of their defence. In other cases, a pseudonym may be assigned as per request of the parties;
 - e. avoiding exposure to the accused by using screens or single visibility mirror;
 - f. through examination in another place, transmitted simultaneously to the courtroom by means of video link; through a qualified and suitable facilitator, such as, but not limited to, an interpreter for vulnerable witness with hearing, sight, speech or other disabilities;
 - g. holding in-camera trials;

74 HAQ Centre for Child Rights, *Balancing Children's Confidentiality and Judicial Accountability: A Cross-Country Comparison of Best Practices Regarding Children's Privacy in the Criminal Justice System*, <<https://www.haqcrc.org/new-at-haq/balancing-childrens-confidentiality-and-judicial-accountability>>.

75 *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, Clause 6(d).

76 *POCSO Act 2012, Section 33(7); JJ Act 2015, Section 74; Indian Penal Code 1860, Section 228A, Nipun Saxena v. Union of India, (2019)2 SCC 703, Witness Protection Scheme, 2018, Clause 2(b). Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 15A(8)(a)(b). ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime Clause*

77 *For instance, in cases of incest where the accused is the father, the child become identifiable immediately if the name of the father appears in the judgment copy available on e-courts or any other publicly accessible domain.*

78 *POCSO Act, 2012, Section 33(7); Indian Penal Code 1860, Section 228A(2); Code of Criminal Procedure 1973, Section 327 (3); Nipun Saxena v. Union of India, (2019)2 SCC 703 (Supreme Court of India).*

- h. if the child victim or witness refuses to give testimony in the presence of the accused or if circumstances show that the child may be inhibited from speaking freely in that person's presence, the court shall give orders to temporarily remove the accused from the courtroom to an adjacent room with a video link or a one way mirror visibility into the courtroom. In such cases, the defence lawyer shall remain in the courtroom and question the vulnerable witness, and the accused's right of confrontation shall thus be guaranteed;
 - i. taking any other measure that the court may deem necessary to advance the right to privacy, including, where applicable, anonymity, taking into account the best interests of the child witness and the rights of the accused.
- (iii) Orders and judgments pertaining to cases involving vulnerable child witnesses shall be made available on e-courts or on the official portal of the court after suppressing their identifying information.
- 38. Standard Operating Procedure to be followed during virtual examination of child witnesses-** Judges shall ensure that the Standard Operating Procedure affirmed by the Hon'ble Supreme Court of India in *In Re Children in Street Situation*⁷⁹ is adhered to in all criminal trials where the child witness does not reside near the court where the trial is conducted and where the child witness is examined virtually, not physically, by the court in which the trial is conducted.
- 39. Man-power required for smooth and efficient functioning of vulnerable witness deposition centre-** The requisite man-power for smooth and efficient functioning, management and regulation of the affairs of Vulnerable Witness Deposition Centre including keeping and maintaining of records and data etc. shall be determined by the High Court from time to time.
- 40. Application of Rules for Video Conferencing for Courts:-** Wherever applicable or in case of any ambiguity, 'Rules for Video-Conferencing for Courts' contained in Punjab and Haryana High Court Rules and Orders Volume I, III & V or any other rules as framed by the High Court of Punjab and Haryana in this regard shall apply.
- 41. Residual provisions:-** Matters concerning which no provision is made in these guidelines shall be decided by the Court consistent with the interest of vulnerable witnesses without prejudice to the rights of accused to a fair trial.
- 42. Booking of slot for examination of vulnerable witnesses in Vulnerable Witness Deposition Centre:-** On receipt of requisitions from different courts relating to the examination of vulnerable witnesses in the Vulnerable Witness Deposition Centre, the officer-in-charge of Vulnerable Witness Deposition Centre shall book date and time slot for such examination, enter the slot booking in a register to be maintained by him and communicate the same to the concerned courts well in advance.
- 43. Man-power required for smooth and efficient running of Vulnerable Witness Deposition Centre :**
- (a) Officer-in-charge: The officer-in-charge shall be designated by the concerned District & Sessions Judge who shall ensure management and regulation of the affairs of Vulnerable Witness Deposition Centre including keeping and maintaining of records and data etc.

⁷⁹ *In Re Children in Street Situations*, 2022 SCC Online SC 189 (Supreme Court of India).

- (b) Technical Assistant-cum-Coordinator : The Technical Assistant shall be appointed/designated by the District & Sessions Judge who shall apart from providing technical support at all ends in smooth and effective running of Vulnerable Witness Deposition Centre, assist the officer-in-charge of Vulnerable Witness Deposition Centre in managing and regulating the affairs of Vulnerable Witness Deposition Centre. Wherever applicable, he shall also function as remote point coordinator under 'Rules for Video-Conferencing for Courts' contained in Punjab and Haryana High Court Rules and Order, Volume I, III & V.

Till the said arrangement is made, the System Officer/System Assistant/District System Administrator shall function as technical assistant of Vulnerable Witness Deposition Centre.

BY ORDER OF HON'BLE THE CHIEF JUSTICE AND JUDGES.

(Sd.). . . ,

(ARUN KUMAR AGGARWAL),
Registrar (Rules),
for Registrar General.

CHANDIGARH ADMINISTRATION
DEPARTMENT OF SOCIAL WELFARE, WOMEN & CHILD DEVELOPMENT

Notification

The 9th February, 2023

No. SW3/BOD/2023/1029.—In pursuance of the provisions of Article 50 (2) of the Memorandum of Association and Articles of Association of the Chandigarh Child & Women Development Corporation, H.E - The Administrator, U.T. Chandigarh is pleased to reconstitute the Board of Directors of the Chandigarh Child & Women Development Corporation Limited Chandigarh as under :—

- | | | | |
|----|--|----|-----------------------|
| 1. | Secretary Social Welfare,
Chandigarh Administration. | .. | Chairman |
| 2. | Special Secretary Finance,
Chandigarh Administration. | .. | Ex-Officio Director |
| 3. | Managing Director,
Chandigarh Child & Women
Development Corporation. | .. | Ex-Officio Director |
| 4. | Director Health Services
Chandigarh Administration. | .. | Ex-Officio Director |
| 5. | Director School Education
Chandigarh Administration. | .. | Ex-Officio Director |
| 6. | Director Technical Education,
Chandigarh Administration. | .. | Ex-Officio Director |
| 7. | Sh. Gurjit Singh Matharoo,
H.No. 3214, Sector 27-D, Chandigarh | .. | Non Official Director |
| 8. | Sh. BrijBhushan Sharma,
H. No. HIG-20, Dharampur Colony, Pinjore. | .. | Non Official Director |

This supersedes all previous notifications regarding appointment of Board of Directors, Chandigarh Child & Women Development Corporation.

The 3rd February, 2023.

Adviser to the Administrator,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
(DEPARTMENT OF INFORMATION TECHNOLOGY)

Notification

The 15th February, 2023

No. 181/IT/2023/2339.—The Administrator, Union Territory Chandigarh is pleased to notify the addenda and amendments in the existing Chandigarh Right of Way Policy for Telecom Infrastructure, 2021 of Chandigarh Administration to regulate underground infrastructure and overground infrastructure. The Policy is intended to amend any existing notifications, circulars, rules, bye-laws, regulations where ever necessary regarding obtaining permission for Telecom infrastructure from various authorities in the Chandigarh Administration or any board, corporation in Chandigarh. This policy supersedes all related orders, notification etc. including Chandigarh Right of Way Policy for Telecom Infrastructure, 2021 & Memo No. 26/6/22 UTFI (3) 2015/2140, dated 9th March 2015.

CHAPTER I

PRELIMINARY

1. Short title, extent, applicability and commencement :

- (a) This Policy may be called the 'Chandigarh Right of Way Policy for Telecom Infrastructure (Amendment), 2023'.
- (b) It shall extend to the whole of Chandigarh
- (c) It shall come into force from the date of its publication in the official Gazette of U.T. Chandigarh.
- (d) It shall be administered by the Department of Information Technology, Chandigarh Administration.

2. Definitions—

- (1) In this policy, unless the context otherwise requires,—
 - (a) "Act" means the Indian Telegraph Act, 1885 (13 of 1885);
 - (b) "Appropriate authority" means any authority designated by Chandigarh Administration from time to time for this policy;
 - (c) "State Government" means U.T. Chandigarh Administration;
 - (d) "Licensee" or "applicant" under this policy means any person holding a license issued under sub-section (1) of section 4 of the Act or an infrastructure provider-I registration certificate issued by the Department of Telecommunication;
 - (e) "Overground telegraph infrastructure" means a telegraph or a telegraph line/telecom tower established over the ground and includes posts or other above ground contrivances, appliances and apparatus for the purpose of establishment or maintenance of the telegraph or the telegraph line, including movable communication infrastructure;
 - (f) "Rules" means the Indian Telegraph Right of Way Rules, 2016;
 - (g) "Underground telegraph infrastructure" means a telegraph line laid under the ground and includes manholes, inspection chambers, ducts, marker stones, appliances and apparatus for the purposes of establishment or maintenance of the telegraph line;
 - (h) "Schedule" means a Schedule appended to this policy;

- (i) "Mobile tower" means any above-ground contrivance for carrying, suspending or supporting a telegraph and does not include pole;
- (j) "Pole" means any above-ground contrivance of height not exceeding eight meters for carrying, suspending or supporting a telegraph and does not include mobile tower;
- (k) "Small cell" means a low powered cellular radio access node that has a coverage of distance from ten meters to two kilometers;
- (l) "Appropriate central authority" means the Central Government or the authority, body, company or institution, incorporated or established by the Central Government, in respect of property, under, over, along, across, in or upon which underground or overground telegraph infrastructure, is to be established or maintained, vested in, or under, the control or management of such Government, authority, body, company or institution;
- (m) "Annum" means financial year starting from 1st April;
- (n) "Street Furniture" includes "post/pole used for electricity, street light, traffic light, traffic sign, bus stop, tram stop, taxi stand, public lavatory, memorial, utility pole or any other structure or contrivance of such nature established over the property of an appropriate authority" as defined by DoT, GoI from time to time;

- (2) Words and expressions used and not defined herein but defined in the Act shall have the meaning assigned to them in the Act.

3. Applicability.—The appropriate authority designated by the Chandigarh Administration shall exercise the powers under this policy on an application for establishment and maintenance of underground or overground telegraph infrastructure by any licensee on whom the powers of the telegraph authority have been conferred by notification under section 19B of the Act, subject to any conditions and restrictions as may be imposed in such notification.

4. Nodal officer to be designated by local authority, etc.-

- (1) The Additional District Magistrate, Chandigarh shall be the designated appropriate authority to carry out the purposes and objects enshrined in the rules.
- (2) Every application for permission under this policy shall be made by the licensee on GatiShakti Sanchar Portal.
- (3) The designated nodal officers who shall be responsible for resolving the issue related to their domain of their department and would be single window interface for the applicants for street furniture exploration, infra readiness and facilitate licensee shall be: -1) ADC, UT, Chandigarh, 2) AEO, UT, Chandigarh, 3) C.E., UT, Chandigarh, 4) C.A, UT, Chandigarh, 5) C.E., MC Chandigarh and furthermore to be nominated by concern department and designated by the Secretary IT, Chandigarh Administration from time to time.

CHAPTER II**ESTABLISHMENT AND MAINTENANCE OF UNDERGROUND
TELEGRAPH INFRASTRUCTURE****5. Application by a licensee/applicant.—**

- (1) A licensee/applicant shall, for the purposes of establishment of telegraph infrastructure under any immovable property vested in any private person or under the control of any Central Government, State Government or any other local authority, make an application, supported by such documents (as specified in Appendix C), to the Appropriate Authority, in such form and manner as may be specified by that appropriate authority.
- (2) The information along with supporting documents to be provided by the licensee/applicant in the application made under sub-rule (1) shall include—
 - (a) A copy of the license/registration certificate granted by the Department of Telecommunications, Government of India;
 - (b) The details of underground telegraph infrastructure proposed to be laid;
 - (c) The mode of and the time duration for, execution of the work; (as specified)
 - (d) The time of the day when the work is expected to be done in case the licensee/applicant expects the work to be done during specific time of the day;
 - (e) The specific measures proposed to be taken to ensure public safety during the execution of the work;
 - (f) Any other matter relevant, in the opinion of the licensee/applicant, connected with or related to the work proposed to be undertaken; and
 - (g) Any other matter connected with or related to the work as may be specified, through a general or special order, by the Central Government or appropriate State Government or appropriate local authority.
- (3) Every application under sub-rule (1) shall be accompanied with such fee to meet administrative expenses for examination of the application and the proposed work as per Appendix A.
- (A) The application fee shall not be forfeited (Fully/Partially), in case of rejection of application on account of deficiency in the documents submitted by the applicant and the application fees paid shall be adjusted on re-submission of application after rectification for the same site.
- (4) Charge mentioned in clause 5(3) will not apply to M/s Bharat Broadband Network Limited (BBNL).

6. Grant of permission by appropriate authority—

- (1) The appropriate authority shall get the application examined with respect to the following parameters, namely :—
 - (a) The route planned for the proposed underground telegraph infrastructure and the possible interference, either in the establishment or maintenance of such telegraph infrastructure, with any other public infrastructure that may have been laid along the proposed route;
 - (b) The mode of execution;

- (c) The time duration for execution of the work and the time of the day that the work is proposed to be executed;
 - (d) The responsibility for restoration of any damage that the appropriate authority may necessarily be put in consequence of the work proposed to be undertaken;
 - (e) Assessment of measures to ensure public safety and inconvenience that the public is likely to be put to in consequence of the work proposed and the measures to mitigate such inconvenience indicated by the licensee/applicant;
 - (f) Any other matter, consistent with the provisions of the Act and this policy, connected with or relative to the establishment or maintenance of underground telegraph infrastructure, through a general or special order, by the Central Government, State Government or the appropriate local authority.
- (1a) The area of the underground telegraph infrastructure proposed to be established shall be the length of duct multiplied by the diameter of the duct multiplied by the number of the ducts.
- Explanation. -"duct" means a pipe, permanently lubricated or of any other kind, used as underground cable conduit for telegraph line.
- (1b) The respective department/board/corporation/society shall be entitled to receive such compensation from the license, the amount specified in Part-III of the Schedule, for the use of their property under which the underground telegraph infrastructure is proposed to be established.
- (2) The appropriate authority shall within a period not exceeding forty days from the date of application made under rule 5-
- (a) Grant permission on such conditions including, but not limited to, the time, mode of execution, measures to mitigate public inconvenience or enhance public safety and payment of restoration charge provide that where horizontal directional digging technology is used for establishing underground telegraph lines, restoration charges shall be levied as per Annexure-A: or
 - (b) Reject the application for reasons to be recorded in writing:
- Provided that no application shall be rejected unless the applicant licensee/applicant has been given an opportunity of being heard on the reasons for such rejection:
- Provided further that the permission shall be deemed to have been granted if the appropriate authority fails to either grant permission under (a) or reject the application under (b); and the same shall be communicated in writing to the applicant not later than five working days after permission is deemed to have been granted however, the incomplete application shall be reverted online and will not be considered under deemed approved category and may be rejected if the reply shall not be submitted by the applicant within the stipulated timeline provided in the online portal.
- (3) Where the appropriate authority accepts the undertaking by the licensee/applicant to discharge the responsibility to restore the damage that such appropriate authority shall necessarily be put in consequence of the work, the appropriate authority, while granting permission under clause (a) of sub-rule (2) may seek a bank guarantee for an amount, in lieu of expenses for restoration of such damage, as security for performance in the discharge of the responsibility.

- (4) The permissions for Right of Way for laying the communication & connectivity infrastructure and associated installations shall be granted for a period coterminous with the period of permission/ license/registration granted by the Department of Telecommunications, Government of India.
- (5) Permissions granted for laying of underground telecom infrastructure and installation of the associated infrastructure shall be provided to the applicant as per clause 6(2) on Non-Exclusive Basis under this policy.
- (6) The local authority may earmark a predefined route alignment along the internal road circulation network as per the required specifications (with or without a duct) as part of their development works for laying of the telecom infrastructure so as to avoid repeated digging and/or to facilitate the applicant seeking permissions to lay the cables in future. The concerned local authorities are encouraged to provide for common ducts. Modalities for this shall be worked out separately.
- (7) The fee and others for charges for underground infrastructure are prescribed in Appendix -A.

7. Obligations of licensee in undertaking work.—

- (1) The licensee shall make the payment of expenses or submit the bank guarantee as determined by the appropriate authority within a period of thirty days from the date of grant of permission and prior to the commencement of work of laying the underground telegraph infrastructure:

Provided that the appropriate authority may, at its discretion, extend the said period for payment of expenses or submission of bank guarantee on an application made by the licensee seeking such extension.
- (2) The licensee shall ensure that -
 - (a) Prior to the commencement of work of laying the underground telegraph infrastructure and at all times during the execution of work, the measures to mitigate public inconvenience and provide for public safety are implemented; and
 - (b) The work of laying underground telegraph infrastructure is carried out in accordance with the conditions specified in the grant of permission by the appropriate authority.
 - (c) The licensee/applicant will be liable for repair/restoration of any damage caused to the property or to essential services during implementation of the scheme. The licensee/applicant shall ensure making good the excavated trench for laying underground Optical Fibre Cable by proper filling and compaction, so as to restore the land into the same condition as it was before digging the trench. Clearing debris/loose earth produced due to execution of trenching the portion for which Right of Way has been granted.
- (3) The licensee/ applicant shall ensure provision of positional intelligence, through appropriate technology, of all underground telegraph infrastructure to enable the appropriate authority to obtain real time information on its location.

8. Powers of appropriate authority to supervise the work.—

- (1) The appropriate authority may supervise the execution of work to ascertain if the conditions imposed in the grant of permission under clause (a) of sub- rule (2) of rule 6 are observed by the licensee/ applicant.
- (2) If the appropriate authority comes to the conclusion that the licensee/ applicant has willfully violated any of the conditions for grant of permission under clause (a) of sub-rule (2) of rule 6, it may forfeit, in full or in part, the bank guarantee submitted by the licensee/ applicant and cancel the permission granted to the licensee/ applicant, for reasons to be recorded in writing:

Provided that no action shall be taken under this sub-rule unless the licensee has been given an opportunity of being heard.

- (3) In case the licensee/ applicant is unable to complete the work in the given time frame, an application for extension of time may be submitted to the appropriate authority. The appropriate authority will examine the reasons for delay and may grant extension of time allowed for execution of work.
- (4) Where the appropriate authority is compelled to revoke or cancel the permission, the licensee/ Applicant shall not be entitled for any compensation or any loss caused to it by such cancellation.
- (5) The permission if granted for installation of Mobile Tower/telegraph infrastructure/ pole shall be valid for a period of 3 months only. In case the applicant fails to install the same within stipulated period of 3 months, then penal rent @12% will be imposed. If in case the applicant fails to pay the penal rent, the permission shall deemed to be cancelled and imposed all the charges/advance rent/fee deposited by applicant shall be forfeited. Further concerned Department/ Board/Corporation/competent authority will be at liberty to again allot the same to an applicant.

CHAPTER III

ESTABLISHMENT OF OVERGROUND TELEGRAPH INFRASTRUCTURE

9. Application by a licensee/ applicant.—

- (1) A licensee/ applicant shall, for the purposes of establishing overground telegraph infrastructure, upon any immovable property vested in private person or under the control of any Central Government, State Government or any other local authority, make an application, supported by such documents (as specified in Appendix C), to the Appropriate Authority, Chandigarh in such form and manner as may be specified by that appropriate authority.
- (2) The information alongwith supporting documents to be provided by the licensee/applicant in the application made under sub-rule (1) shall include-
 - (a) A copy of the license/registration certificate granted by the Department of Telecommunications, Government of India;
 - (b) The details of the building or structure, where the establishment of the overground telegraph infrastructure, is proposed;
 - (c) The mode of and the time duration for, execution of the work;
 - (d) The inconvenience that is likely to be caused to the public and the specific measures proposed to be taken to mitigate such inconvenience;
 - (e) The measures proposed to be taken to ensure public safety during the execution of the work;
 - (f) The detailed technical design and drawings of the post or other above ground contrivances;
 - (g) Certification of the technical/structural design and stability certificate certified by PEC University of Technology, Chandigarh or NITTTR Chandigarh or a structural engineer from the empanel list of Engineering Department, Chandigarh Administration from time to time, attesting to the structural safety of the overground telegraph infrastructure and of the building, where the post or other above ground contrivances is proposed to be established on a building.
 - (h) Any other matter relevant, in the opinion of the licensee/ applicant, connected with or relative to the work proposed to be undertaken; and

- (i) Any other matter connected with or relevant to the work as may be specified, through a general or special order, by the Central Government or appropriate State Government or appropriate local authority.
- (j) Consent of the land owner, government or private, where the tower is proposed to be installed.
- (k) Clearance from Air Force/Airport Authorities, where needed
- (2A) The application fee shall not be forfeited (Fully/Partially), in case of rejection of application on account of deficiency in the documents submitted by the applicant and the application fees paid shall be adjusted on re-submission of application after rectification for the same site.

10. Grant of permission by appropriate authority.—

- (1) The appropriate authority shall examine the application with respect to the following parameters, namely :—
 - (a) The location proposed;
 - (b) The mode of and time duration for execution of the work;
 - (c) The estimation of expenses that the appropriate authority shall necessarily be put in consequence of the work proposed to be undertaken;
 - (d) Assessment of the inconvenience that the public is likely to be put to in consequence of the establishment or maintenance of the overground telegraph infrastructure, and the measures to mitigate such inconvenience indicated by the licensee/ applicant;
 - (e) Certification of the technical design by a structural engineer attesting to the structural safety of the overground telegraph infrastructure;
 - (f) Certification, by a structural engineer, of the structural safety of the building on which the post or other above ground contrivances is proposed to be established;
 - (g) Any other matter, consistent with the provision of the Act and the rules, connected with or related to the laying of overground telegraph infrastructure, through a general or special order or guidelines by the Central Government, appropriate State Government or the appropriate local authority.
- (1A) The area of the overground telegraph infrastructure (mobile tower) proposed to be established shall be the area occupied by the mobile tower and the supporting infrastructure, such as base transceiver station, engine alternator, etc. at the ground.
- (2) Where establishment of the overground telegraph infrastructure renders the immovable property, vested in the control or management of any appropriate authority over which such overground telegraph infrastructure is established, unlikely to be used for any other purpose, the appropriate authority shall be entitled to compensation for the value of the immovable property, either once or annually, assessed on such rates as that appropriate authority may, by general order, specify;

The compensation payable for the immovable property for the establishment of poles for installation of small cells and telegraph line is specified in Part-III of the Schedule.
- (3) The permissions for Right of Way for laying the communication & connectivity infrastructure and associated installations shall be granted for a period coterminous with the period of

permission/ license/ registration granted by the Department of Telecommunications, Government of India;

- (4) The appropriate authority shall, within a period not exceeding forty days from the date of application made under rule 9
 - (a) Grant permission on such conditions including, but not limited to, the time, mode of execution, measures to mitigate public inconvenience or enhance public safety or structural safety and payment of restoration charge, or compensation, as specified in sub-rule(2); or
 - (b) Reject the application for reasons to be recorded in writing, provided that no application shall be rejected unless the applicant licensee/ applicant has been given an opportunity of being heard on the reasons for such rejection:

Provided further that the permission shall be deemed to have been granted if the appropriate authority fails to either grant permission under clause (a) or reject the application under clause (b) and the same shall be communicated in writing to the applicant not later than five working days after permission is deemed to have been granted however, the incomplete application shall be reverted online and will not be considered under deemed approved category and may be rejected if the reply shall not be submitted by the applicant within the stipulated timeline provided in the online portal.

- (5) The permission if granted for installation of Mobile Tower/telegraph infrastructure/ pole shall be valid for a period of 3 months only. In case the applicant fails to install the same within stipulated period of 3 months, then penal rent @12% will be imposed. If in case the applicant fails to pay the penal rent, the permission shall be deemed to be cancelled and imposed all the charges/advance rent/fee deposited by applicant shall be forfeited. Further concerned Department/ Board/Corporation/competent authority will be at liberty to again allot the same to an applicant.

10A. Usage of street furniture for installation of small cells and telegraph line

- (1) A licensee shall for the purpose of installation of small cell and telegraph line submit an application, along with details of street furniture and a copy of certification by PEC University of Technology, Chandigarh or NITTTR, Chandigarh or a structural engineer from the empanel list of Engineering Department, Chandigarh Administration, attesting to the structural safety of the street furniture where installation of small cells and telegraph line is proposed to be deployed, to the appropriate authority for permission to use street furniture for installation of small cells and telegraph line.
- (2) The application under sub-rule (1), shall be accompanied with such fee to meet administrative expenses for examination of the application, as specified in Part-1 of the Schedule.
- (3) The appropriate authority shall, within a period not exceeding forty days from the date of application made, grant permission or reject the application for reasons to be recorded in writing:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard on the reasons for such rejection, provided further that the permission shall be deemed to have been granted if the appropriate authority fails to either grant permission or reject the application however, the incomplete application shall be reverted online and will not be considered under deemed approved category and may be rejected if the reply shall not be submitted by the applicant within the stipulated timeline provided in the online portal.

- (4) The respective department/board/corporation/society shall be entitled to receive such compensation from the licensee, the amount specified in Part-III of the Schedule, for use of street furniture for installation of small cells and telegraph line.
- (5) The appropriate central authority may permit installation of small cells on their buildings and structures

10B. Establishment of infrastructure over private property. - Where the licensee proposes the establishment of Poles/small cell at private property, the licensee shall not require any permission from the appropriate authority, however the licensee shall submit an intimation, in writing, to the appropriate authority, prior to commencement of such establishment: Provided further that along with the intimation, he shall also submit the details of the building or structure and a copy of certification by PEC University of Technology, Chandigarh or NITTTR Chandigarh or a structural engineer from the empanel list of Engineering Department, Chandigarh Administration, attesting to the structural safety of the building or structure, where the pole or small cell is proposed to be established.

11. Obligations of licensee/ applicant in undertaking work.—

- (1) The licensee/ applicant shall ensure that
 - (a) Prior to the commencement of establishment and maintenance of overground telegraph infrastructure and at all times, the measures to mitigate public inconvenience and ensure public safety, including structural safety of such overground telegraph infrastructure are implemented;
 - (b) The work of establishment and maintenance of overground telegraph infrastructure is carried out in accordance with the conditions specified in the grant of permission by the appropriate authority.

12. Powers of appropriate authority to supervise the work.—

- (1) The appropriate authority may supervise the establishment and maintenance of overground telegraph infrastructure, including movable infrastructure to ascertain if the conditions imposed in the grant of permission under clause (a) of sub-rule (4) of rule 10 are observed by the licensee/ applicant.
- (2) If the appropriate authority comes to the conclusion that the licensee/ applicant has willfully violated any of the conditions for grant of permission under clause (a) of sub-rule (4) of rule 10, it may cancel, for reasons to be recorded in writing, the permission granted to the licensee:

Provided that no action shall be taken under this sub-rule unless the licensee/ applicant has been given an opportunity of being heard.

Where the appropriate authority is compelled to revoke or cancel the permission, the "Licensee/ Applicant" shall not be entitled for any compensation or any loss caused to it by such cancellation.
- (3) In case the licensee is unable to complete the work in the given time frame, an application for extension of time may be submitted to the appropriate authority. The appropriate authority will examine the reasons for delay and may grant extension of time allowed for execution of work.

13. Restrictions of Location, Footprint and Height.—

- (1) The height of the Mobile/Communication Tower shall be approved/ certified by Standing Advisory Committee on Radio Frequency Allocation (SACFA) and shall be subject to the norms and mechanism laid down by Department of Telecommunications, Government of India, from time to time.

- (2) The EMF radiation from active equipment installed by Telecom Infrastructure Provider on the mobile communication Towers shall be subject to the norms & mechanism lay down by DoT GoI from time to time. TERM cell (License Service Area) unit of the Department of Telecommunication, Govt. of India is the competent agency to tender advice, monitoring and ensuring the control on EMF radiation related matters. The respective TERM cell (License Service Area) unit can audit for EMF radiation at any time as per the Department of Telecommunications Guidelines.
- (3) The terms and conditions/guidelines issued/ notified by the Department of Telecommunications, Government of India in respect of any conditions applicable to the Infrastructure provider or licensees, as amended from time to time, shall be applicable and will be the binding in all cases. Distance from nearby building and height of antennas should be governed as per latest Department of Telecommunication Guidelines amended for time to time.
- (4) A tower, shall be located only in open areas, (such as unused spots in parkings, incidents open areas including open area of institutions, in such a manner that the functionality of the place is not hindered in any manner)/ or atop commercial or institutional buildings. In case of ground based towers the footprint of the tower shall not exceed 7.5 mtrs X 7.5 mtrs (including all the infrastructure). Further the guidelines issued by CPCC from time to time shall be adhered by all the concerned. Provided that in case licensee wishes to install the mobile tower at any other location the same may be decided by the State Broadband Committee.

14. Permission for movable communication infrastructure.—

- (1) Permissions granted for moveable communication Towers/Cell on Wheels (CoW) or any other temporary infrastructure for managing the events/festivals/ fairs shall be co-terminus with the period of that event or against a specific requirement to provide communication facility to public at large. Before installation of moveable communication Towers/Cell on Wheels, a formal application shall be required to be submitted alongwith the reason to the concerned Appropriate Authority and the permission shall be granted by the concerned nodal officer within 10 days from the date of receipt of said formal request. In case the permission is not granted within 10 days from the date of receipt of a formal request by the Applicant to the concerned Appropriate Authority, the same shall be deemed granted. No fee/charge shall be charged for such cases. In the event of any Disaster, the permission to set up Cell on Wheels may be sought from the Appropriate Authority.
- (2) In case moveable communication Towers/Cell on Wheels are installed in lieu of permanent infrastructure to cover the blank areas, a formal permission will be required to be obtained by the Licensee/ applicant after paying the requisite fee/charges as mentioned in Appendix B along with all documents as specified in Appendix C. The period will be extended till the time the permission for the site to set up a permanent infrastructure is granted as per the provisions of this policy.
- (3) Permission(s) granted to the licensee/ applicant under this policy will not be transferable and will be applicable only for the period for which it has been granted. The permission granted under the Policy shall not, in any manner, be deemed to convey to the 'licensee/applicant' any ownership or perpetual rights in respect of the land or structures used for laying the underground/ overhead cables or other installations e.g. any Towers/ Masts etc.

- 15. In Build Solutions (IBS).**—This policy intends to promote installation of In Build Solution (IBS), where there is a poor connectivity in terms of weak signal strength inside the office, shopping mall, hospitals, multi-storey building, education institutions and objective is to strengthen quality of service of mobile network.
- (1) In Build Solution component being a small equipment can be installed on any type of land/ building/ utility pole and there is no requirement of getting the permission for installation of these components from the Appropriate Authority but it is required to get permission from the Administrative Authority of the concerned building, applicable only for Government buildings.
 - (2) There shall be no fee to be charged for IBS. However, charges can be levied for provision of power, fixtures, etc. if taken by the licensee/applicant.
- 16. Micro Communication Equipment/Pole.**—This policy intends to promote installation of Micro Communication Equipment/ Pole, where installation of Mobile towers may not be feasible. The licensee/ applicant, shall submit a filled up application with all the relevant information and documents to the Appropriate Authority, who shall issue permit/ permission to the Licensee/Applicant. The following documents may be sought from the Licensee/ Applicant:-
- (1) Copy of relevant license/Infrastructure Provider Registration Certificate from Department of Telecommunications, Government of India;
 - (2) Copy of clearance from Fire Safety Department only in case for high rise buildings where fire clearance is mandatory;
 - (3) Indemnity Bond (Original) to take care of any loss or injury to accident cause by the tower (including a declaration to the effect that the Applicant will take necessary precautions for fire safety and lightning and it shall be solely responsible for paying all kinds of compensation and damages and would be responsible for case arising there from) ;
 - (4) Copy of No objection Certificate from building /land owner which mobile tower is proposed to be installed & authorized person in case of Government premises;
 - (5) Any other document that appropriate authority deems fit;
 - (a) The rejection of application, appeal procedure shall be same as for other overground infrastructure as stated in this policy;
 - (b) One time permission charge of Rs.3000 shall be applicable for establishment of Micro Communication Equipment throughout UT, Chandigarh.

CHAPTER IV**SUBMISSION AND PROCESSING OF APPLICATIONS**

- 17. Time-lines for decisions on the Applications.**—The Chandigarh Administration will adhere to the following time-lines for grant of the relevant permissions:

S. No.	Event	No. of working days
1.	All applications for seeking permission to lay the telegraph infrastructure Above Ground or Under Ground, shall be submitted by the Applicant to the Appropriate Authority and the same will be automatically forwarded to the concerned nodal officer(s) (Level 1)	T (0 day)
2.	The Level 1 officer will scrutinize the application and document attached. Any discrepancy in the application will be reverted to the applicant with remarks or forward to the Level 2 officer for further processing.	T+10 days
3.	The level 2 nodal officer of the department shall process the applications and submit its recommendation to the Appropriate Authority. Each concerned department/authority will process the application concurrently and not sequentially. The property owing/occupying department(s)/board/Cooperation shall be allowed to furnish non-consent for installation of telegraph infrastructure only if the said infrastructure hinders the functionality of the said property with justification / reason in writing.	(Within (10 days) T + 20 days
4.	The appropriate authority will convey in writing to the applicant: (i) Approval /rejection (with reasons) (ii) Letter of Intent (LoI) (iii) Demand Notice for various charges including the performance Bank Guarantee as per the rates decided.	(within 5 days) T + 25 days
5.	Compliance of the LoI conditions by the applicant and deposit of various charges. The LoI may be cancelled if no compliance is received.	(within 10 days) T + 35 days
6.	As soon as the LoI holder completes the documentation and deposits all the relevant charges, including the performance Bank Guarantee, the Appropriate Authority shall issue a formal permission in favour of the applicant so as to enable the "Applicant" to commence execution of related infrastructure works.	(within 5 days) T + 40 days

- 18. Electrical power to Licensee/ Applicant.**—The power distribution department/company/agency shall provide power/electric connection to the applicant within the time-lines defined under the Electricity Supply Board Regulation notified by the Joint Electricity Regulatory Commission (JERC) as applicable in UT Chandigarh; after submission of complete application and relevant documents.

The power distribution department/company/agency will not disconnect the power/electric connection (if required) as per provision under Electricity Act 2003 and measure related to Safety and Electric Supply Regulation, 2010, amended from time to time.

CHAPTER V

RIGHT OF APPROPRIATE AUTHORITY TO SEEK REMOVAL OF UNDERGROUND OR OVERGROUND TELEGRAPH INFRASTRUCTURE

19. Right of appropriate authority to seek removal, etc.-

1. Where the appropriate authority, having regard to circumstances which have arisen since the establishment of any underground or overground telegraph infrastructure under, over, along, across, in or upon, any immovable property, considers that it is necessary and expedient to remove or alter such telegraph infrastructure, it shall issue a notice to the licensee/ applicant, being the owner of such telegraph infrastructure, to remove or alter its location.
2. On receipt of the notice under sub-rule (1), the licensee/ applicant shall, forthwith and within a period of thirty days, proceed to submit, to the appropriate authority, a detailed plan for removal, repair or alteration of such telegraph infrastructure.
3. The appropriate authority shall, after examination of the detailed plan submitted by the licensee/ applicant under sub-rule (2), pass such orders as it deems fit:

Provided that the appropriate authority shall, having regard to emergent and expedient circumstances requiring the removal or alteration of such telegraph infrastructure, give a reasonable time to the licensee/ applicant for removal or alteration of such telegraph infrastructure:

Provided further that the responsibility and liability, including the cost thereof, for removal or alteration of such telegraph infrastructure shall be borne by the licensee/ applicant.

CHAPTER VI

DISPUTE RESOLUTION

- 20. Disputes between licensee and appropriate authority:** - Secretary Information Technology, Chandigarh Administration, shall be the Appellate Authority against the orders of the Appropriate Authority. Appeal against the order of the Secretary Information Technology, Chandigarh Administration shall lie with the Advisor to the Administrator of U.T.Chandigarh.

Chandigarh :
The 15th February, 2023.

(Sd.) . . . ,
Director, Information Technology,
Chandigarh Administration.

Appendix-A

Schedule of Charges for underground infrastructure

S. N. Description	Restoration Charges
1. RoW/One Time Charges	Rs. 1000/- Kilometer. For underground telegraph Infrastructure
2. Annual User Fee	<p>Rs. 100/- per pit/manhole</p> <p>Rs. 10/-per Mtr for OFC</p> <p>Rs. 10/- per Mtr for cables using poles.</p> <p>The above annual charges will be taken for 5 years at the time of grant of permission. These annual charges will be re-fixed after a period of 5 years (2018-2023) for another block of 5 years and so on.</p> <p>In cases where telecom cables such as optical fiber cables etc. have to be laid underground by any method such as duct & conduits, tunneling core, etc. the service provider will be expected to conduct the entire operation of laying the cable fiber and restoring the site and all related infrastructure to its original and useable condition at their own cost. In case, the service provider/ infrastructure provider chooses not to rehabilitate the site/infrastructure or is unable to do so within a period of 30 days after laying the infrastructure, the Municipal Corporation shall execute the rehabilitation of the site/road by levying the restoration charges as at Sr. No. 3.</p> <p>However, in case the service/infrastructure provider chooses to rehabilitate the site infrastructure at his own to the entire satisfaction of concerned Govt. Deptt. The agency shall deposit security amount Rs. 300/- per mtr. The deposit security amount will be utilized/forfeited by concerned department. In case the agency fails to carry out the restoration work to its original condition as per entire satisfaction of department within 30 days.</p>
3. Restoration Charges including 15% Supervision Charges	<p>V-3, V-4, V-5 Road : Rs. 970.70/Mtr</p> <p>V-6 Road & Parkings : Rs. 528.54/Mtr</p> <p>Paver Blocks : Rs. 764.26/Mtr</p> <p>Road Berm : Rs. 158.12/Mtr</p> <p>Inspection Chamber/Manhole : Rs. 15753.72</p> <p>Pit on Kutcha : Rs. 632.49/-each</p> <p>Pit on Pavers : Rs. 3017.38/-each</p> <p>Pit on Road : Rs. 3817.08/-each</p> <p>The above Charges will be 50% for laying by HDD method with a maximum dia of duct as 120mm.</p> <p>The restoration road cut charges will increase 10% annually from 01st April of every year.</p>

4.	Performance Bank Guarantee (Amount of PBG to be reviewed after every 5 years)	A Performance Bank Guarantee @ Rs. 73.21/- per mtr. length with a validity of one year initially as a security against improper filling, unsatisfactory compaction/ damages caused to other underground installations/ utility services and interference/ interruption/ disruption or failure caused thereof to any services
5.	Supervision Charges	15% of Total Restoration amount
6.	GST	18% of the Total Restoration amount
7.	Charges for construction of overhead /chamber upto 1 mtr. Max. dimension	Rs 17203/- each

Note:

1. These above said charges (Except S.No. 1- One Time Charges) will be increased @10% w.e.t 1st April of each year.
2. The applicant is liable to pay the advance rent/fee/charges (as applicable) from the date of grant of demand note within 10 days else interest @ 12% pa will be applicable till max period of 06 months else the application shall not be considered for processing. Further applicant are also liable to pay advance rent//fee/charges due as the case may be on 1st April of every corresponding year.
3. The other terms and conditions will remain the same as approved in the 243rd meeting of General House of the Municipal Corporation, Chandigarh.
4. The Performance Bank Guarantee as a security against satisfactory completion of work by agency for a period of 06 months over and above the project completion period. In case of time over runs for completion of the works, the bank Guarantee shall be renewed/got extended by the applicant corresponding to the revised completion + 6 months. The applicant shall obtain formal permission for time extension from the appropriate authority. However, Performance Bank Guarantee will be immediately returned on satisfactory completion of the work by the agency.
5. The agency/contractor will carry out GPR survey along the route where the duct has to be laid for detection of existing utilities. The data for utility collected through GPS survey would be unconditional shared with MCC free of cost.
6. Permission granted to the agency/contractor will not be transferable and will be applicable only for the period for which it has been granted.
7. If required, the MCC can direct the Contractor/agency to change the optical fiber cable in stipulated time period or shift the cable to other area and the applicant license shall be bound to do the same for which all the expenses would be borne by the contractual agency.
8. Responsibility of public safety will lie with Contractor/agency during establishment or post establishment of Mast, Pole and laying of cable, during its maintenance or other related activities. The contractor/agency shall take all necessary safety steps and measures while executing the work and they will indemnify the MCC against any accident and damage caused to life or property during.
9. The contractor/agency or any 3rd party will not be allowed to display any advertisement on the Mast and Pole without permission of Appropriate Authority.

10. In case of any damage to the essential Municipal Services i.e water supply, sewerage system and telecommunication lines, electricity supply etc. it will be the responsibility of the contractor/ agency to inform Municipal Corporation within 24 hours. In case of failure of non-reporting, then the Bank Guarantee will be immediately forfeited. If the actual amount of damage is more than the amount of bank Guarantee then, the same shall be recovered from the agency.
11. The permission will be granted by MCC within a period of 2 weeks subject to the application being complete with route details and fulfilment of all terms and condition as per guidelines.
12. An agreement will be executed between the contractor/agency and MCC regarding compliance of all terms and condition.
13. Contractor/agency will give a notice of 15 days with route details prior to trenching for maintenance/repair work will be furnished by the contractor/agency.
14. In case of any dispute between the contractor/agency and MCC, the Commissioner, Municipal Corporation, Chandigarh will be the final authority for settlement of such dispute and such decision will be binding on both the parties.
15. For construction of RCC manhole, the structure will be designed as per the norms of Indian Road Congress. The agency will be responsible for maintenance and upkeep of the manholes from time to time. If any manhole comes in the way of approved alignment of any proposed water supply, sewerage of any other service, the agency will be bound to shift or remove the manhole/ cable and make changes at its own cost.

Appendix-B**Schedule of Charges for Overground Infrastructure**

Sr. No.	Type of Charges	Charges
1.	Permission and Administrative Charges for overground infrastructure (One-time- Non-Refundable)	Rs. 10, 000/-
2.	Rental charges when tower is placed on Government land and buildings. Rental charges when tower is placed on the building rather than on the ground (Govt land)	Rs. 5,00,000/- per annum Rs. 3,00,000/- per annum

Appendix C**Documents to be attached with the Application**

1. Application (in duplicate) for permission for establishment of overground communication and connectivity Infrastructure or for its renewal shall be submitted to the concerned appropriate authority in the relevant form, along with following documents :—
 - (a) A copy of the license registration certificate granted by the Department of Telecommunication (DoT) Ministry of Communication Government of India;
 - (b) The detailed technical design and drawings of the tower/post or other above ground infrastructure including the specification of foundation. In case the tower /post etc. is in the vicinity or adjoining to high or low tension line, then its distance from the same shall be clearly indicated in the drawings;
 - (c) The structural design of the tower, certified by PEC University of Technology or NITTTR Chandigarh or a structural engineer from the empanel list of Engineering Department, Chandigarh Administration from time to time.
 - (d) Time schedule (Stretch-wise) for completion of the work;
 - (e) In case the permission is sought in the land/premises of any office of Central Government or a PSU of Central Government, the prior written consent copy of agreement from the authority having legitimate right over the land/premises shall be attached with the application;
 - (f) Indemnity bond to indemnify the appropriate authority in the prescribed format against (a) any liability for the damage caused to the infrastructure laid by the applicant for any reasons, and (b) claims against any accidents on account of the infrastructure laid/ facilities installed or against any claims thereafter during the period of Operation & Maintenance of such infrastructure at all times;
 - (g) Undertaking as per Appendix-D shall be submitted by the "License/Applicant" along with the application.
2. Application for permission to lay underground telegraph infrastructure or taking fibre to home in the right of way shall be submitted to the concerned appropriate authority in the relevant form, along-with following documents :—
 - (a) A copy of relevant License/ infrastructure provider registration certificate granted by the DoT;
 - (b) Detail of the location map showing the proposed underground telegraph infrastructure including route planned, nature of land;
 - (c) The detailed technical design and drawings of the post or other above-ground contrivances (in case of over ground cabling);
 - (d) Time schedule (Stretch-wise) for completion of the work;
 - (e) Indemnity bond to indemnify the Government/ Local Body/ Authority in the /prescribed format against (i) any liability for the damage caused to the infrastructure laid by the applicant for any reasons, and (ii) claims against any accidents on account of the infrastructure laid/ facilities installed or against any claims thereafter during the period of Operation & Maintenance of such infrastructure at all times;
 - (f) Undertaking as per Appendix-D shall be submitted by the "Applicant" along with the application;
 - (g) For Forest/Protected Areas, the copy of clearance from Department of Forest and Wildlife, Chandigarh Administration, if applicable; (*Note:- NOC of Forest Deptt. would not be required in areas not covered under Forest/Protected Areas.*)
3. The Applicant shall submit a copy of receipt in proof of the payment of application fee and other charges as prescribed under this policy. However, once the provision for payment gateway is provided, payments shall be made online only.
4. The Applicant shall furnish such other relevant information as may be required by the Appropriate Authority from time to time.
5. Permissions such as NOC etc. from the concerned departments/ authorities shall be obtained by the applicant through the portal.

Appendix-D**Undertaking by the Applicant (To be printed on Rs. 20/- Stamp Paper)**

We _____ (Name of Telecom Infrastructure Provider), having its Circle Office at _____ and registered office at _____ intend to (laying underground Optical Fibre/ Co-Axial Cables, Erection of Poles for overhead communication cables, Installation of Dish Antennas, Erection of Ground Based Mast GBM/ GBT/RTT/RTP Communication /Mobile Tower)_____

at _____ (Address/ Location). We have moved an application dated _____ seeking permission from the appropriate authority.

In this regard, we hereby undertake the following :—

1. To pay all the applicable charges and the Performance Bank Guarantee, as specified in the Schedule of Charges to the agency according permission without any default;
2. To maintain the infrastructure facilities in good and safe condition at all times during the O&M period ;
3. To execute an Agreement with the competent authority;
4. To lay/re-align the communication network/relocate the poles/dish antenna/communication/mobile tower/ground based mast at its own cost in the event of requirement of the area for augmentation of public services e.g.widening of roads, pedestrian walkways, water supply and distribution network, sewage/ drainage network etc.);
5. To abide by the terms and conditions of grant of permission & adherence to the radiation norms as prescribed by the Department of Telecommunications, Government of India or the TRAI.
6. To provide copy of Standing Advisory Committee on Radio Frequency Allocation (SACFA) clearance/ copy of SACFA application for the said location submitted to Wireless Planning & Coordination (WPC) wing of DoT with registration number as WPC acknowledgement along with undertaking that in case of any objection/rejection, licensee will take corrective actions/ remove the tower; *(Note:- the copy can be submitted to the Nodal Officer within 30 days the location is finalized and the tower is installed).*
7. To provide mitigation measures for the inconvenience that is likely to be caused to the public;
8. To discharge the responsibility for restoration, to the extent reasonable and prudent, of the damage that the appropriate authority shall necessarily be put in consequence of the work proposed to be undertaken ;
9. To furnish the requisite documents as may be changed from time by the appropriate authority ;
10. To provide copy of No-objection Certificate issued by the Fire and Emergency Services Department, Municipal Corporation Chandigarh, in case of buildings where fire clearance is mandatory;
11. To provide for Forest/Protected areas, the copy of clearance from the Department of Forest and Wildlife, Chandigarh Administration, if applicable;

12. To provide acknowledgement receipt issued by TERM Cell, (License Service Area), Punjab, of the self-certificate submitted by Applicant in respect of mobile tower/Base Transceiver Station (BTS) establishing/ certifying that all general public areas around the tower will be within safe Electro Magnetic Radiation (EMR) exposure limit as per peak traffic measurement after the antennas starts radiating; *(Note: - It can be submitted within 30 days after tower starts radiating).*
13. To discharge the responsibility for restoration, to the extent reasonable and prudent, of the damage that the appropriate authority shall necessarily be put in consequence of the work proposed to be undertaken.
14. Further, I undertake and agree that the permission granted for installation of Mobile Tower/ telegraph infrastructure/pole shall be valid for a period of 6 months only. In case we fail to install the same within stipulated period of 6 months, the permission shall deemed to be cancelled and all the charges/advance rent/rent./fee deposited by applicant shall be forfeited. Further concerned Department/ Board/Corporation/competent authority will be at liberty to again allot the same to an applicant.
15. We shall be liable for legal proceedings against us, in case of loss of life and/or property due to the installation/works undertaken via this application.

(Authorized Signatory)

Date :
Place :

Name of the Authorized Signatory
Along with Company Seal.

The Schedule

Part-I Fee		
1.	For establishment of overground telegraph infrastructure	(a) Rs. 1000/km (One thousand rupees per kilometer) for establishment of overground telegraph line. (b) Nil for establishment of poles, for installation of small cells and telegraph line, on the immovable property vested in, or under control or management of appropriate central authority (c) Rs. 1000/pole (One thousand rupees per pole) for establishment of poles, for installation of small cells and telegraph line, on the immovable property vested in, or under control or management of appropriate authority, other than appropriate central authority.
2.	For installation of small cells and telegraph line using the street furniture	Nil.
Part-II Charges for restoration		
1.	Establishment of overground telegraph infrastructure	For the area under the MCC, the charges required to restore immovable property are as per the rate in Appendix A.
Part-III Compensation		
1.	Establishment of underground telegraph infrastructure	Nil (Except the charges mention in Appendix A)
2.	Establishment of poles for installation of small cells and telegraph line	Nil (Except the fee as per Part-I of the Schedule.
3.	Usage of street furniture for installation of small cells and telegraph line	(a) For installation of small cells: Three hundred rupees per annum per street furniture (The charges shall be levied 60 days after the approval for the establishment of the pole) (b) For installation of telegraph line: One hundred rupees per meter per annum. (provided that the same may not be put up in haphazard manner and shall be put up only in appropriate manner which needs to be certified by the nodal officer of the concerned department/corporation, failing which the same may be removed by giving 15 days prior notice) Example: If the approval is granted on 1st June 2022, rental period will start from 1st Aug 2022 & for the FY 2022-23 the charges will be worked out accordingly. The above charges shall be initially paid for the block year of 5 years along with annual increment of 10% levied from 1st April of every year.

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."